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FISCAL IMPACT STATEMENT

LS 6694
BILL NUMBER: SB 183

NOTE PREPARED: Dec 17, 2003
BILL AMENDED:

SUBJECT: Natural resource matters.

FIRST AUTHOR: Sen. Weatherwax
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
☒ DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill increases from \$50,000 to \$75,000 the cost of projects that the Department of Natural Resources (DNR) may perform without awarding a public works contract. This bill also adopts the Pest Control Compact. The bill establishes procedures to obtain funds from the Pest Control Insurance Fund. It increases penalties for violation of certain oil and gas well laws. This bill also makes technical corrections. (The introduced version of this bill was prepared by the Natural Resources Study Commission.)

Effective Date: July 1, 2004.

Explanation of State Expenditures:

DNR Public Works. Currently, IC 4-13-6-5-4 limits construction projects that the DNR can complete using DNR employees to those projects that cost less than \$50,000. (IC 4-13-2-11.1 limits the Department of Correction to projects costing less than \$100,000. All other state agencies are limited to \$75,000.) This bill increases the DNR limit from \$50,000 to \$75,000. Raising the limit could increase the number and types of projects that the DNR could complete using its own workforce which could reduce DNR expenditures to the extent that the DNR would not need to contract for additional outside services. DNR's seasonal work cycle would allow staff to complete construction projects during winter months when public visitation to its properties is minimal.

The proposal would not require the DNR to complete all projects under \$75,000, but would provide the Department with the option to do so. The table below outlines DNR project costs that were bid for 2001 and 2002.

Project Costs Bid by the Department of Natural Resources									
Year	Less than \$50,000			\$50,000 to \$75,000			Greater than \$150,000		
	Number	Costs	% of total	Number	Costs	% of total	Number	Costs	% of total
2001	61	\$902,279	4%	8	\$534,326	2%	38	\$23,169,810	94%
2002	83	\$1,050,852	6%	10	\$652,778	3%	40	\$17,224,920	91%
2-Year Total	144	\$1,953,131	4%	18	\$1,187,104	3%	78	\$40,394,730	93%
Total projects bid for 2001 equaled \$24,606,415 with \$18,928,550 bid in 2002. The 2-year total for all projects bid equaled \$43,534,965.									

Pest Control Compact. The Interstate Pest Control Compact is an insurance fund. Currently, 34 states belong. To join, Indiana must pay a one-time fee of \$33,342. However, this expense can be paid over a six-year period, which would result in an annual payment of \$5,557.

Background Information: The Pest Control Insurance Fund is established to finance other than normal pest control operations that states may be called upon to engage in under the compact. The fund consists of money appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except under certain circumstances, must be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. The fund is administered by a governing board and executive committee.

Each party state must have a compact administrator who shall assist in the coordination of activities under the compact and represent the compact's administrator's state on the governing board of the fund. The governing board must meet at least once each year to determine policies and procedures in the administration of the fund and supervising and giving direction to the expenditure of money from the fund. The Commissioner of Agriculture will serve as compact administrator for Indiana. The Office of the Commissioner should be able to absorb any additional administrative expenses required given its current budget.

Each of the state's budgets must contain specific recommendations of the amount to be appropriated to the fund. The request for appropriations must be apportioned among the party state based on the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. The fund must not pledge the credit of any party state. The fund may meet any obligation with money available.

The compact provides financial assistance for participating states in certain cases of pest infestation. For example, the Emerald Ash Borer is an insect that can destroy North American ash trees. Currently, infestations are found in southeastern Michigan, Toledo, and Hicksville, Ohio. The Hicksville infestation is within two miles of the Indiana border. In Detroit, 3,000 square miles contain infested ash trees. When a borer is found, ash trees within a one-half mile radius must be destroyed. The DNR, U. S. D. A, and the U. S. Forest Service are conducting surveys in northern Indiana. Although the Emerald Ash Borer has not yet been found in Indiana, the DNR has been monitoring trees imported from infested areas. Funds from the compact can be used to fight against the infestation of the Emerald Ash Borer.

Oil and Gas Reporting. The bill would create a Class D felony for knowingly falsifying any written certification or verification required under IC 14-37. A separate offense would be charged for each falsification. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues:

Pest Control Compact. The Pest Control Insurance Fund may accept donations, grants, equipment, supplies, materials, and services. The Commissioner of Agriculture may request revenues from the fund to pay for pest infestations. The amount of revenue that Indiana will have access to will depend on the number and nature of pest infestations. The department, agency or officer expending or becoming liable for an expenditure on account of a control or eradication program undertaken under the compact must have credited to the entity's account in the State Treasury the amount of any payments made to defray the costs of the program or as reimbursement from the program

Oil and Gas Reporting, Civil Penalty. Under current law a violation of oil and gas well laws results in a civil penalty of not more than \$10,000, which is deposited in the Oil and Gas Environmental Fund. Under the bill, the maximum civil penalty would increase to \$20,000. Fines and penalties paid to the Oil and Gas Environmental Fund could increase if the maximum civil penalty is increased. In FY 2003, fines and penalty revenue to the Fund totaled \$6,050.

Class D Felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund

and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures:

Pest Control Compact. Local units may benefit from the assistance in the control of pest infestations which could reduce local expenditures that would be used to control infestations.

Oil and Gas Reporting, Class D Felony. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues:

Oil and Gas Reporting, Class D Felony. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Natural Resources, Commissioner of Agriculture, and the Department of Correction.

Local Agencies Affected: Units responsible for controlling pest infestations; trial courts, local law enforcement agencies.

Information Sources: John Davis, DNR Deputy Director, and Tom Holman, DNR; Dr. Robert Waltz, State Entomologist and Director of the DNR Division of Entomology and Plant Pathology; Indiana Sheriffs Association, Department of Correction.

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